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Attorneys for Defendant Donald C. Winter

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

PAULA HORVATH,	)	No. C 07-4952 JSW
	)	
Plaintiff,	)	<b>ANSWER OF DEFENDANT DONALD</b>
	)	<b>C. WINTER</b>
v.	)	
	)	
DONALD C. WINTER, Secretary,	)	
Department of the Navy,	)	
	)	
Defendant.	)	
	)	

Defendant Donald C. Winter, by and through his counsel, hereby admits, denies, alleges and otherwise responds to Plaintiff Pauline Horvath's Amended Complaint ("Complaint") as follows (with all references to page and line numbers corresponding to Plaintiff's Complaint filed on May 2, 2008):

As an initial matter, Defendant denies that there was any "blacklist" or other document used to retaliate against employees as a result of prior Equal Employment Opportunity ("EEO") activity.

Page 1, line 21 through 23: This allegation requires no response. To the extent that a response is deemed necessary, defendant denies each and every allegation in this portion of the

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1 Complaint.

2 Page 1, line 24 through page 2, line 4: Defendant denies each and every allegation in this  
3 portion of the Complaint.

4 Page 2, line 5 through page 3, line 9: Defendant lacks information sufficient to form an  
5 answer regarding this portion of the Complaint and, on that basis, denies each and every  
6 allegation in this portion of the Complaint.

7 Page 3, line 10 through line 15: Defendant admits the allegations in this portion of the  
8 Complaint.

9 Page 3, line 16 through line 21: Defendant admits that plaintiff filed an informal EEO  
10 complaint in 1986; except as so expressly admitted, defendant lacks information sufficient to  
11 form an answer regarding this portion of the Complaint and, on that basis, denies each and every  
12 allegation in this portion of the Complaint.

13 Page 3, line 22 through page 6, line 24: Defendant lacks information sufficient to form an  
14 answer regarding this portion of the Complaint and, on that basis, denies each and every  
15 allegation in this portion of the Complaint.

16 Page 6 line 25 through page 7 line 7: Defendant admits that plaintiff's last day of work  
17 was in June 1992; except as so expressly admitted, defendant lacks information sufficient to form  
18 an answer regarding this portion of the Complaint and, on that basis, denies each and every  
19 allegation in this portion of the Complaint.

20 Page 7 line 8 through page 12 line 26: Defendant lacks information sufficient to form an  
21 answer regarding this portion of the Complaint and, on that basis, denies each and every  
22 allegation in this portion of the Complaint.

23 Page 13 line 1 through 6: This allegation requires no response. To the extent that a  
24 response is deemed necessary, defendant denies each and every allegation in this portion of the  
25 Complaint.

26 Defendant denies that plaintiff is entitled to the relief requested or to any relief  
27 whatsoever. Defendant further denies each and every allegation of the Complaint that has not  
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1 been admitted, denied, or otherwise qualified above.

2 In further answer to the Complaint and as separate affirmative defenses, defendant alleges  
3 as follows:

4 **FIRST AFFIRMATIVE DEFENSE**

5 The court lacks subject matter jurisdiction to consider Plaintiff's claim.

6 **SECOND AFFIRMATIVE DEFENSE**

7 Plaintiff's complaint fails to state a claim upon which relief can be granted.

8 **THIRD AFFIRMATIVE DEFENSE**

9 Plaintiff failed to exhaust her administrative remedies.

10 **FOURTH AFFIRMATIVE DEFENSE**

11 All actions being challenged by Plaintiff were taken for legitimate, non-discriminatory,  
12 non-retaliatory and non-pretextual reasons. Defendant alleges that there was never a "blacklist"  
13 or other document used to retaliate against Plaintiff for any prior EEO activity. Defendant  
14 further alleges that Plaintiff was not retaliated against for any prior EEO activity.

15 **FIFTH AFFIRMATIVE DEFENSE**

16 \_\_\_\_\_ Some or all of Plaintiff's claims are barred by the applicable statute of limitations.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 Plaintiff cannot establish a prima facie case of discrimination or reprisal.

19 **SEVENTH AFFIRMATIVE DEFENSE**

20 Plaintiff's claims are barred by the doctrines of res judicata and/or collateral estoppel.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 Plaintiff's claims are barred by the doctrines of accord and satisfaction based on her  
23 acceptance of an offer of judgment in prior litigation.

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1 WHEREFORE, for the reasons set forth above, defendant asserts that this action  
2 should be dismissed and judgment entered in his favor, with appropriate costs awarded.

3  
4 Respectfully submitted,

5  
6 JOSEPH P. RUSSONIELLO  
7 United States Attorney

8 Dated: May 15, 2008

9 /s/  
10 MICHAEL T. PYLE  
11 Assistant United States Attorney  
12 Attorneys for Defendant Donald C. Winter  
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